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| APPLICATION NO.                  | FILING DATE      | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |  |
| 10/511,056                       | 10/11/2004       | Ralf Prenzel         | 112740-1015         | 6152             |  |
| 29177<br>BELL, BOYD & LLOYD, LLP |                  | EXAMINER             |                     |                  |  |
| P.O. BOX 1135                    |                  |                      | SAFAIPOU            | AIPOUR, BOBBAK   |  |
| CHICAGO, IL                      | HICAGO, IL 60690 |                      |                     | PAPER NUMBER     |  |
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|                                  |                  |                      | 08/04/2008          | PAPER            |  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

| Application No.  | Applicant(s)   |  |  |
|------------------|----------------|--|--|
| 10/511,056       | PRENZEL ET AL. |  |  |
| Examiner         | Art Unit       |  |  |
| BOBBAK SAFAIPOUR | 2618           |  |  |

| earned patent term adjustment. | See 37 CFR 1.704(b). |
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| The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extraosons of time may be available under the provisions of 37 CFR 1.13(a). In no event, however, may a reply be timely fixed after Stic (3) (MONTHS from the mining date of this communication.  - Faince to reply within the set or extended period for reply with by tabletic, causes the application to become ARANDONED (35 U.S.C. § 133). Any reply, received by the fittic bien than three mortials effect by the difficult of the transfer of the set of the second of the second part term adjustment. See 37 CFR 1.70(b).  Status  1) ☑ Responsive to communication(s) filled on 21 May 2009.  2a) ☐ This action is FINAL.  2b) ☑ This action is FINAL.  2b) ☑ This action is FINAL.  2b) ☑ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☑ Claim(s) 31-38 is/are pending in the application.  4a) Of the above claim(s) ☐ is/are withdrawn from consideration.  5 ☐ Claim(s) 31-38 is/are rejected.  7 ☐ Claim(s) ☐ is/are allowed.  6 ☑ Claim(s) ☐ are subject to restriction and/or election requirement.  Application Papers  9 ☐ The specification is objected to by the Examiner.  10 ☐ The drawing(s) filed on ☐ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Application Papers  9 ☐ The drawing(s) filed on ☐ is/are: a) ☐ accepted or the drawing(s) is objected to See 37 CFR 1.58(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to See 37 CFR 1.58(a).  11 ☐ Certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  **See     | Office Action Summary  | Examiner   | Art Unit  |             |  |  |  |  |
|--|--|--|---|-------------|--|--|--|--|
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| 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1 Certified copies of the priority documents have been received.  2 Certified copies of the priority documents have been received in Application No  3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1     Interview Summary (PTO-413)      Paper No(s)Mall Date  | 9) The specification is objected to by the Examine   | r  |   |             |  |  |  |  |
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| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in Initial Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  Attachment(s)    Interview Summary (PTO-413)   Paper No(s)Mdail Date   | _ :  |  |   |             |  |  |  |  |
| a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(e)    Attachment(e)   | Priority under 35 U.S.C. § 119   |  |   |             |  |  |  |  |
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| 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No   |  | priority arradi do Greior 3 i ro(a)  | (4) 5. (1).   |             |  |  |  |  |
| 2. Copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1  |  |  |   |             |  |  |  |  |
| 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  * Attachment(s)  1) Notice of References Cited (PT0-892) 4) Interview Summary (PT0-413) Paper No(s)Mail Date. Paper No(s)Mail Date.   |  |  |   |             |  |  |  |  |
| application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  Paper Nots/Mail Date.  |  |  |   |             |  |  |  |  |
| * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  Altachment(s)    Oldice of References Cited (PTO-892)   |  | •  |   | - 0         |  |  |  |  |
| 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4 Interview Summary (PTO-413) Paper No(s)Mail Date.  |  |  | d.  |             |  |  |  |  |
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| 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date  |  | 4) Interview Summary   | (PTO-413)   |             |  |  |  |  |
| 2) Information Disclosure Statement (a) (ETT/SET/SET)  | 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Da  | ite   |             |  |  |  |  |
| Paper No(s)/Mail Date  | Information Disclosure Statement(s) (FTO/SE/CE)     Paper No/s/Mail Date   |  | atent Application   |             |  |  |  |  |

6) Other: \_\_\_\_\_.

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#### DETAILED ACTION

#### Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/21/2008 has been entered.

Claims 1-30 have been cancelled. New claims 31-38 have been added.

### Response to Arguments

Applicant argues that Ratschunas clearly fails to disclose signaling, upon non-delivery of the data to the second communications unit, with the transmission status message, whether the data could not be delivered to the second communications unit or whether the data could have been delivered, but were not received by the second communications unit.

The Examiner respectfully disagrees. This limitation broadly teaches that when the message has not been delivered, signaling, with the transmission message, if the data cannot be delivered or the data could have been delivered, but was not received. The Examiner notes that this limitation states "whether the data could not be delivered to the second communications unit or whether the data could have been delivered, but were not received by the second communications unit." Therefore, only one of these conditions needs to be met for a reference to disclose the claimed limitations. Ratschunas teaches that the MMSC 2 (read as the first communication unit) accesses the receiving condition information of the multimedia message (step S5) and decides whether the receiving condition is met. In case the receiving condition is

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not met (NO in step S6), a message indicates that the MS 4 (read as the second communications unit) is inactive or busy. This message is sent to the originator that the MS 4 is not reachable (figure 2, steps S6-S7; page 12, line 31 to page 13, line 4). In other words, the multimedia message is supplied to the MMSC 2 (read as first communication unit). With the multimedia message, the MMSC 2 receives the receiving condition and decides if the receiving condition is met. If it is met, the multimedia message is transmitted to the MS 4 (read as second communication unit). If the condition is not met, a message (read as transmission status message) that the MS 4 is inactive or busy is sent (read as signaling, upon non-delivery of the data to the second communications unit, whether the data could not be delivered to the communications unit). (figure 2; page 12, line 22 to page 13, line 4)

The recited claim language is given the broadest reasonable interpretation. As a result, the argued features are written such that they read upon the cited references; therefore, the previous rejection still applies.

#### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted or an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(e) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 31-38 rejected under 35 U.S.C. 102(e) as being anticipated by Ratschunas (WO 01/28171 A1).

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Consider claim 31, Ratschunas discloses a method for transmitting data having multimedia content from a first communications unit (read as MMSC 2) to a second communications unit (read as MS 4) in a telecommunications network (figure 2; page 12, line 22 to page 13, line 4), the method comprising:

transmitting at least one transmission status message assigned to the data to the first communications unit (figure 2; page 12, line 22 to page 13, line 4; read as a message that the MS 4 is inactive or busy is sent); and

signaling, upon non-delivery of the data to the second communications unit, with the transmission status message, whether the data could not be delivered to the second communications unit or whether the data could have been delivered, but were not received by the second communications unit (figure 2; page 12, line 22 to page 13, line 4; If the condition is not met, a message that the MS 4 is inactive or busy is sent).

Consider claim 38, Ratschunas discloses a switching arrangement for transmitting data in a telecommunications network from a first communications unit to a second communications unit, comprising an apparatus for producing a transmission status message which is assigned to the data to be transmitted to the second communications unit (figure 2; page 12, line 22 to page 13, line 4; read as a message that the MS 4 is inactive or busy is sent),

the apparatus providing a signaling, upon non-delivery of the data to the second communications unit, with the transmission status message to the first communications unit, whether the data could not be delivered to the second communications unit or whether the data

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could have been delivered, but were not received by the second communications unit (figure 2; page 12, line 22 to page 13, line 4; If the condition is not met, a message that the MS 4 is inactive or busy is sent).

Consider claim 32, and as applied to claim 31 above, Ratschunas discloses the claimed invention wherein the data could not be delivered due to an incorrect address of the second communications unit or because the second communications unit was not available within a period of validity of the data. (figure 2; page 12, line 22 to page 13, line 4; If the condition is not met, a message that the MS 4 is busy is sent)

Consider claim 33, and as applied to claim 31 above, Ratschunas discloses the claimed invention wherein the data were not received because they were intentionally not downloaded to the second communications unit (figure 2; page 12, line 22 to page 13, line 4; the multimedia message was not sent because the condition was not met,).

Consider claim 34, and as applied to claim 31 above, Ratschunas discloses the claimed invention wherein the signaling comprises providing an item of information concerning the non-deliverability of the data in the transmission status message (figure 2; page 12, line 22 to page 13, line 4).

Consider claim 35, and as applied to claim 31 above, Ratschunas discloses the claimed invention wherein the non-deliverability of the data applies if one of the correct receipt of the

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data and of a recipient notification message concerning the data to be transmitted to the second

communications unit is not acknowledged (read as receiving condition not met) by the second

communications unit via a respectively associated confirmation message (figures 1-3, page 12

line 21 to page to page 14 line 9).

Consider claim 36, and as applied to claim 31 above, Ratschunas discloses the claimed

invention wherein the telecommunications network includes a switching arrangement via which

the data is transmitted from the first communications unit to the second communications unit.

and wherein the switching arrangement establishes the information and signals the information

with the transmission status message to the first communications unit. (figures 1-3, page 12 line

21 to page to page 14 line 9)

Consider claim 37, and as applied to claim 31 above, Ratschunas discloses the claimed

invention wherein the data is transmitted via a Multimedia Messaging Service using a Wireless

Application Protocol. (page 1, lines 12-28)

Conclusion

Any response to this Office Action should be faxed to (571) 273-8300 or mailed to:

Commissioner for Patents P.O. Box 1450

Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window

Randolph Building

Page 7

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401 Dulany Street Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Bobbak Safaipour whose telephone number is (571) 270-1092.

The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the

organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-

3028.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist/customer service whose telephone number is (571) 272-

2600.

/Bobbak Safaipour/

Examiner, Art Unit 2618

July 31, 2008

/Matthew D. Anderson/

Supervisory Patent Examiner, Art Unit 2618